

EU LAW

GENERAL INTRODUCTION EU LAW AND BEYOND

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OVERVIEW

EU LAW

1. Hierarchy of EU law
2. EU decision-making
3. Vertical distribution of competences (EU vs. Member States)

GUIDING QUESTIONS



- Which hierarchy can we find in EU law?
- Which interests do the different EU institutions represent?
- When can the EU adopt new EU directives or regulations?
- In which way can you be affected by EU regulations or EU directives?

EU Law

Examples

Which of the following examples would you qualify as 'law'?

- Treaty on European Union
- E-Commerce Act
- Austrian Road Traffic Code (*Straßenverkehrsordnung*)
- Law on air pollution (*Immissionsschutzgesetz-Luft*), allowing certain electric cars to drive 130 k.p.h.
- Decree setting a speed limit of 100 k.p.h. for certain sections of the A 12 Inntal motorway
- A national provision that motivates people to have euthanasia
- Directive on electronic commerce in the internal market Directive on product liability
- Possibility of sending State Secretaries (and not only Ministers) to the Council of the EU
- Codes of conduct
- Ethical Principles for Medical Research Involving Human Subjects
- MCI's General Terms and Conditions of Business
- MCI's House rules
- A judgment of a national court, or of the Court of Justice of the EU

EU Law

Hierarchy of EU law | plus examples

EU Primary law (EU MS): Treaty on European Union

EU Secondary law

- Directive on electronic commerce in the internal market (European Parliament and Council of the EU)
- Directive on product liability (Council of the EU)

Austrian Parliament

- E-Commerce Act
- Austrian Road Traffic Code

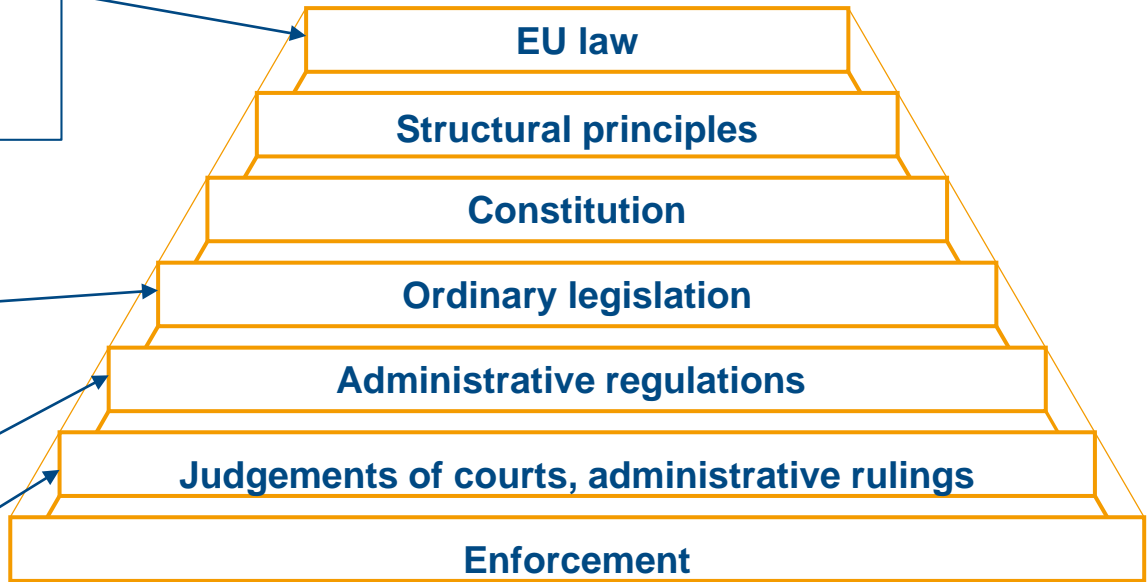
Regional Parliament

- Law on air pollution

Decree of the Governor of the Land
(*Landeshauptmann von Tirol*, regional executive power)

Court judgments

- Codes of conduct (soft law)
- Ethical Principles for Medical Research Involving Human Subjects (WMA)
- General Terms and Conditions of Business (MCI)
- House rules (MCI)



Hierarchy of EU Law



Primary law

- Treaty on European Union (TEU), Treaty on the Functioning of the EU (TFEU)
- Modifications by Treaty revisions (Maastricht, Amsterdam, Nice, Lisbon, etc.) and Accession treaties (e.g. Croatia), protocols etc.
- Charter of Fundamental Rights of the European Union (CFR)
- Treaty establishing the European Atomic Energy Community

Secondary law

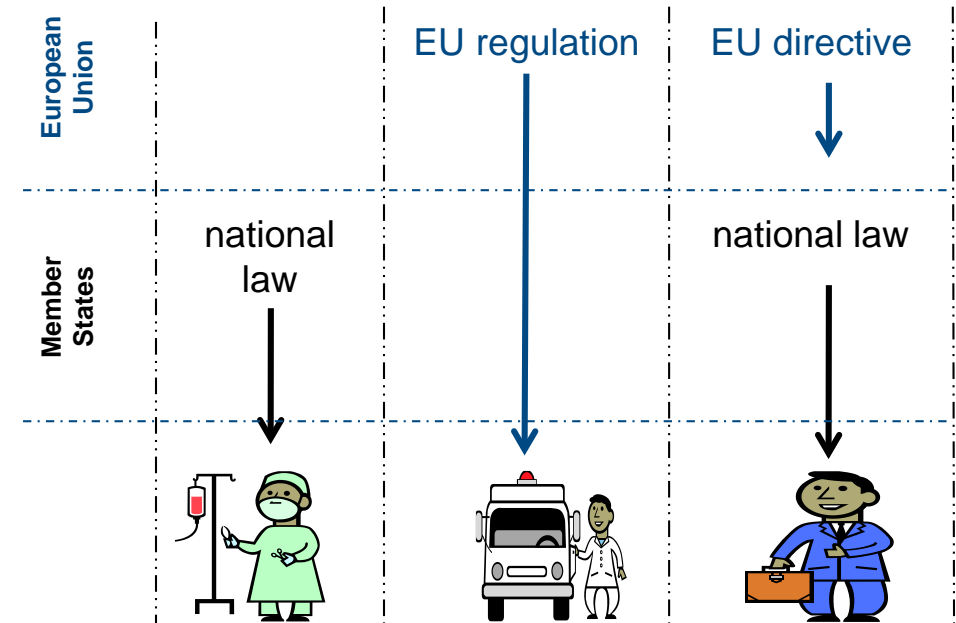
- Decision: binding for addressee
- Recommendations and opinions: no binding force
- **Regulations**: general application, binding in its entirety and directly applicable in the MS
- **Directives**: binding, as to the result to be achieved; leaves choice of form and methods of implementation

Further details



Legal effects of EU regulations and EU directives:

- “A **regulation** shall have **general application**. It shall be **binding in its entirety** and **directly applicable** in all Member States.”
- “A **directive** shall be **binding, as to the result** to be achieved, upon each Member State to which it is addressed, **but shall leave** to the national authorities the **choice of form and methods**.”



Secondary law

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Decision-making



Primary law | all (!) Member States

- TEU, TFEU, [Link](#)
- Modifications by Treaty revisions (Maastricht, Amsterdam, Nice, Lisbon [[Link](#)], etc.) and Accession treaties (e.g. Croatia, [Link](#)), protocols etc.
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Secondary law | **European Parliament and Council of Ministers**

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EU Law

Decision-making



Primary law | all (!) Member States



Secondary law | European Parliament and Council of Ministers | interests



Picture source: European Commission

Decision-making | Secondary law



Further details



- Council video:

- Three main institutions
- Composition
- Interests represented
- Ordinary legislative procedure (co-decision)
- Different readings (and statistics)
- Other procedures
- Implementation into national law
- Preparation of Council work

- EP video:

- Right of initiative
- Process before a proposal is presented
- Process once a proposal has been presented
- Ordinary legislative procedure
- Distribution of competences
- Different readings
- Implementation (Commission and CJEU role)

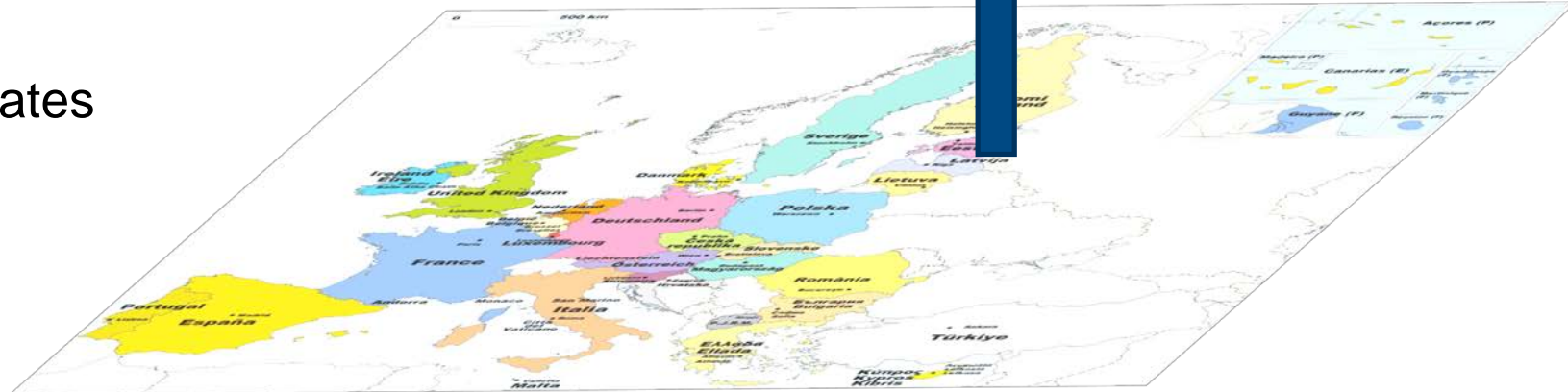
When can the EU issue Secondary law?



- European Union
 - Exclusive competence EU
 - Shared competences EU / MS
 - EU competence to support, coordinate or supplement the actions of the MS



- Member States



... i.e. vertical distribution of competences



– Exclusive competence EU (Art. 3 TFEU)

- customs union;
- the establishing of the competition rules necessary for the functioning of the internal market;
- monetary policy for the Member States whose currency is the euro;
- the conservation of marine biological resources under the common fisheries policy;
- common commercial policy.

– Support, coordination, supplementation (Art. 6 TFEU)

- protection and improvement of human health
- industry;
- culture;
- tourism;
- education, vocational training, youth and sport;
- civil protection;
- administrative cooperation.

– Shared competences EU / MS (Art. 4 TFEU)

- internal market;
- social policy, for the aspects defined in the TFEU;
- economic, social and territorial cohesion;
- agriculture and fisheries, excluding the conservation of marine biological resources;
- environment;
- consumer protection;
- transport;
- trans-European networks;
- energy;
- area of freedom, security and justice;
- common safety concerns in public health matters, for the aspects defined in the TFEU.

EU Law

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- ❑ Which hierarchy can we find in EU law?
 - ✓ EU Primary law: enacted by all (!) EU Member States; e.g. EU-Treaty, EU Charter of Fundamental Rights
 - ✓ EU Secondary law: enacted by European Parliament and (!) Council of the EU (i.e. Council of Ministers); e.g. EU directives or EU regulations
- ❑ Which interests do the different EU institutions represent?
 - ✓ European Commission: interests of the EU
 - ✓ European Parliament: interests of the citizens
 - ✓ Council of the Ministers: interests of the Member States



- ❑ **When can the EU adopt new EU directives or regulations?**
 - ✓ Only in case the EU has a competence for the relevant topic (i.e. vertical distribution of competences).
 - ✓ EU decision-making process: proposal of the Commission, to be adopted by European Parliament and Council of the EU.

- ❑ **In which way can you be affected by EU regulations or EU directives?**
 - ✓ EU regulations: similarly as in case of national law
 - ✓ EU directives: need to be implemented into national law